

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEVEN E. GREER, MD,

Plaintiff,

-against-

DENNIS MEHIEL, ROBERT SERPICO, THE
BATTERY PARK CITY AUTHORITY, HOWARD
MILSTEIN, STEVEN ROSSI, JANET MARTIN,
MILFORD MANAGEMENT, and MARINERS COVE
SITE B ASSOCIATES,

Defendants.

ECF CASE

CIVIL ACTION NO.
15 CV 6119 (AJN)

**AFFIDAVIT OF CORY
TEUSCHLER**

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

Cory Teuschler, being duly sworn, deposes and says:

1. I am Director of Information Technology (“IT”) for defendant Milford Management Corp. (“Milford”), agent for defendant Mariners Cove Site B Associates (“MCSBA”), the Sponsor and owner of certain units in the building located at 200 Rector Place, New York, New York 10280 (the “Building”) in which *pro se* plaintiff Dr. Steven Greer (“Plaintiff”) rented apartment 35F (the “Premises”). As such, I am fully familiar with the facts set forth below.

2. This affidavit is made pursuant to the Court’s May 19, 2017 Order (Dkt. No. 345) requiring that an IT professional describe “how the Landlord Defendants’ server is maintained, any changes that have occurred with respect to the server (in particular, any migration of data), and the methods that the Landlord Defendants have used to respond to Plaintiff’s discovery requests regarding emails and documents held on the server.”

3. I am the senior-most information technology employee at Milford. I have worked in the IT field for twenty years.

4. I began working at Milford on or around March 3, 2017.

5. In connection with the requests for documents served by Plaintiff in this action, I searched for the following search terms in Landlord Defendants' Barracuda Networks Message Archiver appliance ("Server") using Barracuda Networks' search tool titled "archive search" (the "Search"):

- (a) Greer
- (b) 35F
- (c) *batterypark.tv
- (d) *hcc.tv

6. The "*" symbol is a "wildcard" symbol.

7. The Search I performed searched all emails¹ on the Server.

8. I did not restrict the date on the Search. The Search returned results from 2005 through 2017.

9. I subsequently learned that (i) Plaintiff produced approximately 40 emails from Loraine Doyle that were not retrieved by the Search; (ii) Plaintiff produced approximately 50 emails from Mr. Rossi that were not retrieved by the Search; and (iii) defendants Robert Serpico and Battery Park City Authority (collectively "BPCA Defendants") produced two emails between Mr. Rossi and Mr. Serpico that were not retrieved by the Search.

10. As a result, I reviewed my initial Search to insure that I had not missed responsive emails, and I concluded that the missing emails are not in the possession of the Landlord

¹ At all relevant times, Landlord Defendants used a Microsoft Exchange server environment, thus all email files are stored as '.ost', '.msg' or '.pst' files.

Defendants, as set forth below.

The Server

11. The Server was manufactured by a company known as Barracuda Networks.

12. Below is a description of the Server from the website of the manufacturer:

Barracuda Message Archiver is a cloud-integrated message archiving solution that is easy to deploy and manage. It dramatically reduces your email storage requirements while boosting user productivity. And it makes regulatory and e-discovery compliance practically effortless.

With Barracuda Message Archiver, all users can instantly access, search, retrieve, and export archived messages using any device, whether on-site or on the go.

Barracuda Message Archiver integrates with all standards-based email servers, and with cloud email services such as Office 365 and Gmail.

See <https://www.barracuda.com/products/messagearchiver>.

13. The Server is maintained by me and Milford's IT staff, which I manage.

14. The server preserves all emails sent and received from all of the internet domains registered and/or managed by Landlord Defendants in the Microsoft Exchange environment, including 'milfordmgmt.com.'

15. While the space on the Server is finite, the Server has not yet reached its capacity, and still stores all of the data that it contained on the first day it was installed.

The Missing Emails Can Not Be Retrieved By Landlord Defendants

16. At the time I performed the Search, I had only worked at Milford for approximately one week.

17. After I learned that the Search did not produce all the documents believed

to exist, I investigated the history of the Server.

18. I found that the Server was installed in the fourth quarter of 2014 and that, at the time the Server was installed, then existing emails were backed up by having IT employees create a .pst file of existing emails and uploading same to the Server. As such, any emails not found on the Server would have to have been deleted prior to the end of 2014.

19. I also spoke with Emanuel Ignacio, a network system administrator who currently works for Milford and has worked at Milford for approximately fourteen years. Mr. Ignacio informed me that the method of preservation prior to the installation of the Server was the use of back-up tapes. However, the back-up tapes only store approximately nine months of email, thus no additional responsive emails reside on the back-up tapes.

20. I also conducted a search of Mr. Rossi's computer and investigated whether Milford retained Ms. Doyle's computer after her retirement in May 2014.

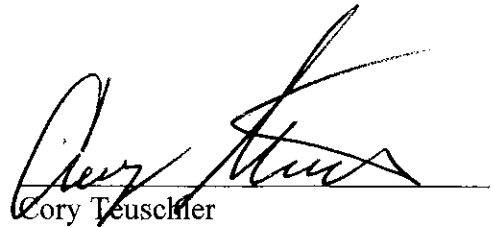
21. I searched Mr. Rossi's current computer and found no emails from prior to January 2017, when he was issued a new computer due to performance issues. I also examined an "image" (i.e. a copy) that had been made of Mr. Rossi's old computer's emails.

22. I performed a search for the same search terms as used in the Search, with the same parameters, on the image of Mr. Rossi's computer and did not find any of the allegedly missing documents, although the subsequent search did produce four additional documents that I understand were produced to Plaintiff.

23. Ms. Doyle retired in May 2014, several months before the Server was installed. I asked Mr. Ignacio what Milford did with its computers in 2014 when an employee left. Mr. Ignacio stated that the procedure was to make an "image" of the emails as a .pst file and save the image on a certain local computer and then format the hard drive of the computer of the former

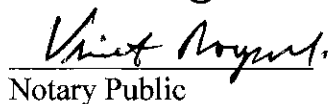
employee, reinstall relevant software, and redistribute the computer when appropriate. Mr. Ignacio told me that the local computer that held .pst files of former employees is no longer in service, and was phased out after the Server was installed. However, I located a .pst file labeled with Ms. Doyle's name on the Server, which contains emails from and to her, which I confirmed by looking through the .pst file saved to the Server. These documents had already been gathered as part of the Search.

24. I have exhausted all available steps to ensure that the Landlord Defendants have produced all required, relevant documents in their possession.



Cory Teuscher

Sworn to before me this
31 day of May, 2017



Notary Public

VINCENT ROOPCHAND
Notary Public, State of New York
No. 01RO6291395
Qualified in Queens County
Commission Expires Oct. 15, 2017